

**IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

|                              |   |                       |
|------------------------------|---|-----------------------|
| PLATINUMTEL COMMUNICATIONS,  | ) |                       |
| LLC,                         | ) |                       |
|                              | ) |                       |
| Plaintiff,                   | ) |                       |
|                              | ) | Court No.: 08 CV 1062 |
| v.                           | ) |                       |
|                              | ) |                       |
| ZEFCOM, LLC d/b/a TELISPIRE, | ) |                       |
| TELISPIRE, INC. et al.       | ) |                       |
|                              | ) |                       |
| Defendants.                  | ) |                       |

**REPLY TO PLATINUMTEL’S RESPONSE TO US MOBILE AND RAMSEY  
NATOUR, AMENDED MOTION TO DISMISS AMENDED COMPLAINT**

**NOW COMES** the Defendants, U.S. Mobile, Inc., and Ramsey Natour, et al., by and through their attorneys, Thomas F. Courtney & Associates, PC, and moves to dismiss the Amended Complaint of Platinumtel Communications, LLC, joining with other similarly situated Defendants stating as follows:

**ARGUMENT**

Platinumtel’s Amended Complaint pleads elements of fraud, conspiracy, and the Lanham Act alleging facts based on “*information and belief*.” Granted, federal complaints plead claims rather than facts. *Kolupa v. Roselle Park District*, 438 F.3d 713, 714 (7th Cir.2006). Under the liberal notice pleading requirements of the federal rules, all that is required to state a claim “is a short statement, in plain ... English, of the legal claim.” *Kirksey v. R.J. Reynolds Tobacco Co.*, 168 F.3d 1039, 1041 (7th Cir.1999); Fed.R.Civ.P. 8(a)(2). “It is enough to name the plaintiff and the defendant, state the nature of the grievance, and give a few tidbits (such as the date) that will let the

defendant investigate.” Kolupa, 438 F.3d at 714. “A full narrative is unnecessary.” *Id.*; see also, e.g., *Swierkiewicz v. Sorema N.A.*, 534 U.S. 506, 122 S.Ct. 992, 152 L.Ed.2d 1 (2002);

However, Platinumtel’s Amended Complaint pleads fraud and violations of the Lanham Act against Natour and US Mobile, which requires a heightened standard. Claims that allege false representation or false advertising under the Lanham Act are subject to the heightened pleading requirements of Fed.R.Civ.P. 9(b). *MPC Containment Sys., Ltd. v. Moreland*, No. 05-C-6973, 2006 WL 2331148, at \*2 (N.D.Ill. Aug. 10, 2006) (collecting cases); *Merix Pharm. Corp. v. GlaxoSmithKline Consumer Healthcare, L.P.*, No. 05-C-1403, 2006 WL 1843370, at \*2 (N.D.Ill. June 28, 2006). With Rule 9(b) specificity is required not only for adequate notice, but also in order for the court to address the sufficiency of the claims that fall within the context of misrepresentations made in commercial advertising or promotion. In this instance a fair reading of the complaint shows a woeful lack of facts direct to US Mobile and Natour to satisfy the requirement.

Platinumtel has failed to adequately allege allegations of fraud against Natour to bring an action personally against him. It has failed to satisfy the burden as to the second element of the alter ego claim, the sanctioning of a fraud or the promotion of injustice. Under Illinois law, piercing the corporate veil is an equitable remedy, not a cause of action. *U.S. v. All Meat and Poultry Products Stored at Lagrou Cold Storage*, 470 F.Supp.2d 823, 833 (N.D.Ill.2007). Under Illinois law, piercing the corporate veil is an equitable remedy, not a cause of action. *U.S. v. All Meat and Poultry Products Stored at Lagrou Cold Storage*, 470 F.Supp.2d 823, 833 (N.D.Ill.2007). The general rule in Illinois, as in many jurisdictions, is that a corporation is a legal entity that exists separate and distinct from its shareholders,

officers, and directors, who therefore are not generally liable for the corporation's obligations. *Itofca, Inc. v. Hellhake*, 8 F.3d 1202, 1204 (7th Cir.1993); *Gallagher v. Reconco Builders, Inc.*, 91 Ill.App.3d 999, 47 Ill.Dec. 555, 415 N.E.2d 560, 563 (1980).

**WHEREFORE**, the Defendants Ramsey Natour, et al., and US MOBILE pray the Court to dismiss the amended complaint, and or any grant any other relief it deems just.

/s/ Thomas F. Courtney, Jr.

**PROOF OF SERVICE**

I, the undersigned attorney, certify that I filed this Proof of Service and the documents identified herein through the Court's ECM/CF document filing system, which will cause electronic notification of the filing to be sent to all counsel of record.

By: /s/ Thomas F. Courtney, Jr.

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**SERVICE LIST**

*PlatinumTel Communications, LLC v. ZEFCON, LLC, et al.*  
Court No.: 08 CV 1062

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